

Before the
Federal Communications Commission
Washington, DC 20554

2001 NOV 26 14 03 22

In the Matter of)

Request for Waiver by)

Trinity Area School District
Washington, Pennsylvania)

Control No. D008858

Federal-State Joint Board on
Universal Service)

CC Docket No. 96-45 ✓

Changes to the Board of Directors of the
National Exchange Carrier Association, Inc.)

CC Docket No. 97-21

ORDER**Adopted: November 19, 2001****Released: November 20, 2001**

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration a Waiver Request filed by Trinity Area School District (Trinity), Washington, Pennsylvania.¹ Trinity seeks a waiver of the Commission's rules governing discounts for services under the schools and libraries universal service support mechanism.² For the reasons set forth below, we deny Trinity's Waiver Request.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.³ In order to receive discounts on eligible services, the Commission's rules require that the applicant submit to the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) a completed FCC Form 470, in which the applicant sets forth its technological needs and the services for which it seeks discounts.³ The Administrator must post the FCC Form 470 on its website, and the applicant is required to wait 28 days before making a commitment with a

¹ Letter from James R. Shargots, Trinity Area School District, to Federal Communications Commission, filed February 22, 2000 (Waiver Request). Although Trinity termed its letter an appeal, we consider it as a Waiver Request because it seeks a waiver of our rules governing the filing window. See 47 C.F.R. § 1.3.

² *Id.*

³ 47 C.F.R. §§ 54.502, 54.503.

⁴ 47 C.F.R. § 54.504(b)(1), (b)(3).

selected service provider.⁵ Once the applicant has complied with the Commission's competitive bidding requirements and entered into an agreement for eligible services, it must file an FCC Form 471 application to notify the Administrator of the services that have been ordered, the carrier with whom the applicant has entered into an agreement, and an estimate of funds needed to cover the discounts to be given for eligible services.⁶ The Commission's rules allow the Administrator to implement an internal filing period ("filing window") for the FCC Form 471 applications that treats all schools and libraries filing within that period as if their applications were simultaneously received.⁷ Applications that are received outside this filing window are subject to separate funding priorities under the Commission's rules.⁸ It is to all applicants' advantage, therefore, to file their applications prior to the close of the filing window.

3. Trinity requests a waiver of the Funding Year 1 (1998-1999) application window, which closed on April 15, 1998.⁹ SLD posted Trinity's FCC Form 470 on February 10, 1998.¹⁰ SLD subsequently received Trinity's FCC Form 471 on April 20, 1998, five days after the filing window closed.¹¹ In its Waiver Request, Trinity asserts that it filed its FCC Form 471 on-line on April 14, 1998.¹² However, applicants were not able to file FCC Forms 471 on-line in the program until Funding Year 2, when SLD's on-line filing pilot program began.¹³ Moreover, the FCC Form 471 that Trinity submitted is clearly handwritten.¹⁴

4. We conclude that Trinity has not demonstrated a sufficient basis for waiving the Commission's rules. Waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.¹⁵ In requesting funds from the schools and libraries universal service support mechanism, the applicant has certain responsibilities. The applicant bears the burden of getting its

⁵ 47 C.F.R. §§ 54.504(b)(3) and (4); § 54.511.

⁶ 47 C.F.R. § 54.504(c).

⁷ 47 C.F.R. § 54.507(c).

⁸ 47 C.F.R. § 54.507(g).

⁹ Waiver Request. Trinity's reference in its Waiver Request to "Funding Year 1997/98" is in error, as Funding Year 1, the first year of the schools and libraries universal service support mechanism, began in 1998.

¹⁰ FCC Form 470, Trinity Area School District, filed February 10, 1998.

¹¹ FCC Form 471, Trinity Area School District, filed April 20, 1998. Under program rules in effect in Funding Year 1, FCC Forms 471 were deemed filed when received by SLD. Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form (FCC Form 471), OMB 3060-0806 (Funding Year 1) (Form 471 Instructions).

¹² *Id.*

¹³ SLD web site, "A Pilot Year for Online Form 471," <<http://www.sl.universalservice.org/whatsnew/011999.asp>>.

¹⁴ FCC Form 471, Trinity Area School District, filed April 20, 1998.

¹⁵ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

forms and other information to SLD for processing within the established deadline if the applicant wishes to be considered with other in-window applicants.

5. The particular facts of this case do not rise to the level of special circumstances required for a deviation from the general rule. Trinity provides no justification for why its FCC Form 471 was received outside the filing window. In light of the thousands of applications that SLD reviews and processes each year, it is administratively necessary to place on the applicant the responsibility of complying with all relevant rules and procedures, including filing deadlines.¹⁶ Here, Trinity fails to present good cause as to why it could not timely file its application. We therefore find no basis for waiving the filing window deadline.

6. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the Waiver Request filed by Trinity Area School District, Washington, Pennsylvania, on February 22, 2000 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Mark G. Seifert
Deputy Chief, Accounting Policy Division
Common Carrier Bureau

¹⁶ See *Request for Review by Anderson School Staatsburg, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association*, File No. SLD-13364, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 25610 (Com. Car. Bur. 2000), at para. 8 ("In light of the thousands of applications that SLD reviews and processes each funding year, it is administratively necessary to place on the applicant the responsibility of understanding all relevant program rules and procedures.").